CITY COUNCIL ACTION REPORT

DATE: March 12, 2007

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark F. Miller, Planning Director

SUBJECT: Public Hearing - Zoning Ordinance Text Amendment (File Number: ZOTA 225) – Articles IV and XXXV – Planned Unit Development Provisions

Background:

- The Planning Commission held a public hearing on this item on February 13, 2007, and recommended approval of the proposed text amendment.

- The PUD process presently provided by the City of Troy Zoning Ordinance does not provide design flexibility needed for sophisticated, multi-phased mixed-use projects. A significant amount of detailed site plan and engineering information is required during the land planning stage. This increases project risk, as significant cost is incurred prior to receiving preliminary PUD approval.

- The proposed process requires the same information to be reviewed and approved, however, the approval order is modified. The design of future phases is dictated by a pattern book, which will be approved during the Conceptual Development Plan Approval stage. The proposed PUD review and approval process is illustrated in the attached flow chart.

- Currently, the Planning Commission makes a recommendation to City Council following a public hearing during the preliminary approval phase. Therefore, the Planning Commission does not have an opportunity to review the project prior to final approval. The proposed language would allow the Planning Commission to make a recommendation to City Council prior to Conceptual Development Plan Approval. The Planning Commission also grants Preliminary Development Plan Approval under the proposed process.

Financial Considerations:

- There are no financial considerations associated with this item.

Legal Considerations:

- City Council has the authority to amend the Zoning Ordinance.

Policy Considerations:

- The proposed amendment is consistent with City Council Goal I (Enhance the livability and safety of the community), Goal II (Minimize the cost and increase the efficiency and effectiveness of City government), Goal III (Retain and attract investment while encouraging redevelopment) and Goal V (Maintain relevance of public infrastructure to meet changing public needs).

Options:

- The Planning Commission recommended approval of ZOTA 225 on February 13, 2007.
- City Council can approve, deny or modify the proposed text amendment.

Approved as to form and legality: _____

Lori Grigg Bluhm, City Attorney

Attachments:

1. Draft ZOTA 225 City Council Public Hearing Draft.
2. Proposed PUD Process Flow Chart.
3. Minutes from February 13, 2007 Planning Commission Regular meeting.

Prepared by RBS/MFM

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CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT
ZOTA 225

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2. Amendment to Article IV of Chapter 39

Article IV of Chapter 39 of the Code of the City of Troy is amended by adding a definition for Planned Unit Development, to read as follows:

04.20.125A PLANNED UNIT DEVELOPMENT: A development consisting of a combination of land uses wherein the specific development configuration and use allocation is based upon a comprehensive physical plan meeting the requirements of Article XXXV.

Section 3. Amendment to Article XXXV of Chapter 39

Article XXXV of Chapter 39 of the Code of the City of Troy is amended by replacing the existing Planned Unit Development provisions with new provisions, to read as follows:

ARTICLE XXXV Planned Unit Development (PUD)

~~35.10.00 Intent:~~

~~The intent of the PUD Option is to permit flexibility in the design and use of residential and non-residential land that, through the implementation of an overall development plan, will:~~

~~A. Encourage innovation and variety in design, layout, and types of land uses and structures;~~

~~B. Ensure the preservation of significant natural features and open space areas;~~

~~C. Achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and facilities;~~

~~D. Encourage a higher quality of development than can be achieved utilizing the requirements of the underlying zoning classifications;~~

~~E. Encourage the assembly of properties and redevelopment of outdated structures and areas;~~

~~F. Provide for enhanced housing, employment, recreation, and shopping opportunities for the citizens of Troy;~~

~~G. Ensure compatibility of developments with the design and function of neighboring sites;~~

~~H. Ensure development that is consistent with the direction of the Master Land Use Plan.~~

~~The provisions of this Article are not intended to be used as a device for avoiding the applicable zoning requirements. The use of the provisions of this Article to permit variations from other requirements of this Ordinance shall only be approved when such approval results in improvements to the public health, safety, and welfare in the area affected, in accordance with this Intent Statement.~~

~~The PUD shall not be utilized in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards.~~

~~The development permitted under this Article shall be considered as an optional means of development, and thus shall only be permitted when mutually agreeable to the developer and to the City Council.~~

~~(05-01-00)~~

~~35.20.00 Definition:~~

~~A "Planned Unit Development" is a development consisting of a combination of land uses wherein the specific development configuration and use allocation is based upon a comprehensive physical plan meeting the requirements of this Article. The predominant uses permitted within a Planned Unit Development shall be those consistent with the direction of the Master Land Use Plan. Other uses may, however, be permitted as a part of a PUD. Physical standards relating to matters such as building height and bulk, density, and setbacks are determined based upon the specific PUD plan presented, its internal design quality, and its compatibility with adjacent uses, rather than being based upon the specific standards contained in the underlying Zoning Districts or in those~~

~~Districts within which the proposed uses otherwise occur. A Planned Unit Development plan, approved in accordance with the provisions of this Article, replaces the underlying Zoning Districts as the basis upon which the subject property is developed and its uses are controlled.~~

~~35.30.00 Eligibility:~~

~~In order to qualify for the Planned Unit Development Option, it must be demonstrated that the following conditions will be met:~~

~~A. The proposed development site shall be under a single ownership or control, and be capable of being planned and developed as one integral unit.~~

~~(Rev. 08-19-02)~~

~~B. The proposed development site shall be limited in its location to one of the following areas:~~

~~1. The City Center Area, which is generally described as including the area lying between Crooks and Livernois Roads, extending north from the property on the south side of Kirts Boulevard to a point one-half mile north of Big Beaver Road, excluding developed single-family residential subdivisions.~~

~~2. Parcels on which the City Council determines, after a recommendation from the Planning Commission, that the flexibility of the PUD regulations would achieve a substantially higher quality of development than could be achieved under a conventional zoning approach. Factors related to development quality shall include, but shall not be limited to: overall site and building design, building materials, preservation of significant natural features, the provision of a greater amount of open space and/or landscaped area, the provision of extensive pedestrian facilities and amenities, and the provision of facilities which enhance or replace those which would otherwise be provided by public entities (e.g. recreation, transportation, safety and security).~~

~~3. Parcels on which the City Council determines, after a recommendation from the Planning Commission, that extreme economic obsolescence exists, and that it would be extremely difficult to achieve economically sound development under a conventional zoning approach.~~

~~(05-01-00)~~

~~C. The applicant must show that a sufficient number of the following objectives, which would not be able to be accomplished without the use of the PUD, are met:~~

~~1. Provide development quality objectives such as those referred to in Section 35.30.00-B-2 above;~~

~~2. Provide a mixture of land uses that would otherwise not be permitted, provided that other objectives of this Article are met and the resulting development would promote the public health, safety, and welfare;~~

~~3. Provide a public improvement, or other facility used by the public, which could not otherwise be required, that would further the public health, safety and welfare, or protect existing or future uses from the impacts of the proposed uses.~~

~~4. Alleviate traffic congestion;~~

~~5. Provide for the appropriate redevelopment or re-use of sites that are occupied by obsolete uses;~~

~~6. Provide a complementary variety of housing types that is in harmony with the adjacent uses;~~

~~7. Promote the intent of the Master Land Use Plan.~~

~~35.40.00 General Development Standards:~~

~~Any land use authorized in this Zoning Ordinance may be included in a Planned Unit Development as a principal or accessory use, provided that:~~

~~A. The predominant uses within a Planned Unit Development shall be consistent with the intent of the Master Land Use Plan. Other uses may be permitted by the City Council, after a recommendation from Planning Commission, when such are determined to be consistent with the intent of this Article.~~

~~B. The applicant for approval of a Planned Unit Development shall demonstrate, to the Planning Commission and the City Council, that physical features of the proposed development, such as building height and bulk, setbacks, and development density are consistent or compatible with those of the adjacent properties.~~

~~C. Open space and landscaped areas are intended to be a primary feature of Planned Unit Developments. To this end, such developments shall provide substantially more open~~

~~space area than that required for typical developments within the underlying Zoning Districts (e.g. fifteen (15) percent of non-residential site, vs. ten (10) percent requirement per Section 39.70.04). Specific interpretation of this standard shall be the responsibility of the City Council, after a recommendation from the Planning Commission.~~

~~(05-01-00)~~

~~D. Stormwater detention or retention shall be provided in open unfenced detention or retention basins, or in underground facilities. These basins shall be incorporated into the landscaping or open space plan for the site. Stormwater detention within parking lots shall not be permitted.~~

~~E. Parking shall be provided in order to properly serve the total series of uses within a Planned Unit Development, based on the provisions of Section 40.21.01. The City Council, after receiving a recommendation from the Planning Commission, may permit the sharing of parking among the various uses within a Planned Unit Development, and thus a reduction in the total parking provided, subject to the following conditions:~~

~~1. A finding by the City Council, based on technical information provided by qualified land use, parking, or traffic consultants, that the consequent reduction in off-street parking will not impair the functioning of the developments served, or have a negative effect on traffic flow on and/or adjacent to the sites served.~~

~~2. The execution of an Agreement between the developer benefiting from the shared parking and the City, setting forth the means by which additional parking, up to the minimum required by Section 40.21.01, will be provided, if and when such is determined to be necessary by the City.~~

~~F. It is intended that Planned Unit Developments will be implemented as a single coordinated and cohesive development project. If it is determined that the scale and nature of the project warrant phased or multi-stage development, the predominant uses established on the site shall be consistent with the intent of the Master Land Use Plan.~~

~~35.50.00 Submittal Requirements:~~

~~Submittal requirements for Planned Unit Developments shall, as a minimum, follow the requirements found in Section 03.30.00 for Special Use Approvals which occur in conjunction with Site Plan Approvals.~~

~~35.50.01 Environmental Impact Statement, according to the provisions of Article VII of this Chapter, shall be submitted as a part of a Planned Unit Development application. The Preliminary Environmental Impact Statement shall be submitted with the application for Preliminary Plan Approval, and the Final Environmental Statement shall be submitted with the application for Final Plan Approval.~~

~~35.50.02 In the event that an applicant would wish to propose a Planned Unit Development wherein the predominant use or uses would not be consistent with the Master Land Use Plan, the applicant shall request that the Planning Commission consider an amendment to that Plan. This request and the supporting documentation may be submitted in advance of or simultaneous with the request for Preliminary Plan Approval. Action on an amendment to the Master Land Use Plan shall occur at or before the time of Preliminary Plan Approval.~~

~~35.60.00 Approval Process:~~

~~The review and approval of Planned Unit Developments shall occur in two stages; Preliminary Plan Approval, and Final Plan Approval.~~

~~(05-01-00)~~

~~35.60.01 Preliminary Plan Approval:~~

~~Preliminary Plans for Planned Unit Developments shall be submitted to the Planning Commission, for review and recommendation to the City Council. Before making a recommendation to the City Council, the Planning Commission shall hold a Public Hearing on the proposal. Following their Public Hearing, the Planning Commission shall make a recommendation to the City Council on the Preliminary Plan for the proposed Planned Unit Development. A Public Hearing shall then be set for the City Council, at which time they will consider the proposal, along with the recommendations of the Planning Commission, the City staff, and other interested parties. The City Council shall then take action to approve, approve with conditions, or disapprove the Preliminary Planned Unit Development Plan. In the event of denial, the City Council shall set forth in their resolution the reasons for such action. The City Council's approval shall be effective for a period of one (1) year, during which time the petitioner is authorized to prepare and submit construction plans for site improvements, phasing plans, Planned Unit Development Agreements, and other documents necessary for Final Plan Approval.~~

~~35.60.02 Final Plan Approval:~~

~~Final plans for Planned Unit Developments shall be submitted to the Planning Department for presentation to and review by the City Council, who shall have final authority for approval of such Final Plans. In conjunction with the application for Final Plan Approval, the applicant shall~~

~~submit evidence of completion of the Final Site Plan Approval process in accordance with Section 03.40.00 of this Chapter. Following their review of the Final Plan, City Council shall take action to approve, approve with conditions, or disapprove the Final Planned Unit Development Plan. In the event of denial, the City Council shall set forth in their resolution the reasons for such action.~~

~~35.70.00 Standards for Approval of Planned Unit Developments~~

~~In considering applications for Planned Unit Developments, the Planning Commission and City Council shall make their determinations based upon the following standards:~~

~~35.70.01 The overall design and all proposed uses shall be consistent with and promote the Intent of the Planned Unit Development approach, as stated in Section 35.10.00, and the Eligibility Conditions as stated in Section 35.30.00.~~

~~35.70.02 The proposed Planned Unit Development shall be consistent with the intent of the Master Land Use Plan.~~

~~35.70.03 The proposed Planned Unit Development includes information which clearly sets forth specifications or information with respect to structure height, setbacks, density, parking, circulation, landscaping, views, and other design and layout features which exhibit due regard for the relationship of the development to the surrounding properties and uses thereon, as well the relationships between the various elements of the proposed Planned Unit Development. In determining whether this requirement has been met, consideration shall be given to the following:~~

~~A. The bulk, placement, and materials of construction of the proposed structures and other site improvements.~~

~~B. The location and screening of vehicular circulation and parking areas in relation to surrounding properties and the other elements of the development.~~

~~(05-01-00)~~

~~C. The location and screening of outdoor storage, loading areas, outdoor activity or work areas, and mechanical equipment.~~

~~D. The hours of operation of the proposed uses.~~

~~E. The location, amount, type and intensity of landscaping, and other site amenities.~~

~~35.70.04 The proposed development shall not exceed the capacities of existing public facilities and available public services, including but not limited to; utilities, roads, police and fire protection services, recreation facilities and services, and educational services, unless the project proposal contains an acceptable plan for the provision of such necessary additional facilities and services.~~

~~35.70.05 The Planned Unit Development shall be designed to minimize the impact of traffic generated by the proposed development on the surrounding uses and area.~~

~~35.70.06 The Planned Unit Development shall include a sidewalk system to accommodate safe pedestrian circulation throughout the development, and along the perimeter of the site, without undue interference from vehicular traffic.~~

~~35.70.07 The proposed Planned Unit Development shall be in compliance with all applicable Federal, State, and local laws and ordinances.~~

~~35.80.00 Planned Unit Development Agreement:~~

~~In conjunction with submittal to the Council of a request for Final Plan Approval for a Planned Unit Development, the applicant shall execute and submit one or more documents which shall serve as the Planned Unit Development Agreement. As a part of their Final Plan Approval action, the City Council shall authorize execution of this Agreement by the City. The PUD Agreement shall include, but shall not be limited to items such as the following:~~

~~1. A summary description of the nature and character of the proposed development, as to permitted uses and site improvements.~~

~~2. A statement of the conditions upon which Final Plan Approval by the City Council is based, with particular attention given to those conditions which are unique to the particular PUD Plan. These conditions can include matters such as, but not limited to, specific architectural standards, building elevations and materials, site lighting, pedestrian facilities, and landscaping.~~

~~3. A summary of the public improvements (streets, utilities, etc.) which are to be carried out in conjunction with the proposed development, along with financial guarantees, in a form acceptable to the City Manager, in order to ensure completion of those improvements.~~

~~4. A document ensuring the maintenance of any open space or common areas which will result from implementation of the~~

~~PUD Plan (e.g. property owners association, conveyance to the City with maintenance deposit).~~

~~The Planned Unit Development Agreement shall be recorded in the office of the Oakland County Register of Deeds, referenced to the subject property.~~

~~(05-01-00)~~

~~35.90.00 Effect of Approval~~

~~Approval of a Planned Unit Development Plan shall constitute an amendment to the Zoning Ordinance. The area encompassed by a Planned Unit Development shall be depicted on the Zoning District Map, as a further notice of the unique nature of the development controls related to the property involved. Following Final Plan Approval for a Planned Unit Development, no use or development of the subject property may occur except that which is consistent with the approved Planned Unit Development Plan and Agreement.~~

~~35.95.00 Amendment or Abandonment of PUD Plan~~

~~35.95.01 Any proposed amendment of the Planned Unit Development Plan which alters the intent and conditions of Final Approval, shall be presented to and considered by the Planning Commission and the City Council at Public Hearings, following a procedure similar to that of Preliminary Plan Approval.~~

~~35.95.02 Planned Unit Development sites on which construction does not occur within a two (2) year period from the date of Final Plan Approval shall be considered abandoned, for the purposes of this Article. The applicant may request a twelve (12) month extension of Final Plan Approval, which will be considered and acted upon by the City Council following a Public Hearing. A written request for extension must be received by the City before the end of the two (2) year Final Plan Approval period.~~

~~Following any action to abandon the proposed Planned Unit Development, whether it be through failure to proceed or through formal notice of abandonment by the property owners or successors, the City Council shall take action to rescind their previous Final Plan Approval actions, and to invalidate any related Agreements. Evidence of such actions shall be recorded in the office of the Oakland County Register of Deeds, referenced to the subject property.~~

~~35.96.00 Appeals:~~

~~The Board of Zoning Appeals shall have no authority in matters covered by this Article. Modifications to plans or proposals~~

~~submitted under this Article shall be processed in accordance with the amendment procedures covered under Section 35.95.00.~~

~~35.97.00 Violations:~~

~~Any violation of the approved PUD Final Plan or the PUD Agreement shall be considered a violation of the Zoning Ordinance, which shall be subject to the enforcement actions and penalties described in Section 02.50.00 of the Zoning Ordinance.~~

~~(05-01-00)~~

35.10.00. Intent:

The intent of the Planned Unit Development option is to permit flexibility in the design and use of residential and non-residential land which, through the implementation of an overall development plan, when applicable to the site, will:

A. Encourage developments that will result in a long term contribution to social, environmental and economic sustainability in the City of Troy;

B. Permit development patterns that respond to changing public and private needs;

C. Encourage flexibility in design and use that will result in a higher quality of development and a better overall project than would be accomplished under conventional zoning, and which can be accommodated without sacrificing established community values;

D. Provide for the long-term protection and/or preservation of natural resources, natural features, and/or historic and cultural resources;

E. Promote the efficient use and conservation of energy;

F. Encourage the use, redevelopment and improvement of existing sites where current ordinances do not provide adequate protection and safeguards for the site or its surrounding areas, or where current ordinances do not provide the flexibility to consider redevelopment, replacement, or adaptive re-use of existing structures and sites;

G. Provide for enhanced housing, employment, recreation, and shopping opportunities for the citizens of Troy;

H. Ensure the compatibility of design and use between various components within the PUD and with neighboring properties and uses; and

I. Ensure development that is consistent with the intent of the land use plan meeting the requirements of the Municipal Planning Act or the intent of any applicable corridor or sub-area plans.

A Planned Unit Development project is viewed as an integrated development concept. To that end, the provisions of this Article are not intended to be used as a device for avoiding the zoning requirements that would otherwise apply, but rather to allow flexibility and mixture of uses, and to improve the design, character and quality of new development. The use of a Planned Unit Development to permit variations from other requirements of this Ordinance shall

only be approved when such approval results in improvements to the public health, safety and welfare in the area affected, and in accordance with the intent of this Article.

35.20.00. Uses Permitted:

The uses permitted within a Planned Unit Development shall be consistent with the intent of the plan meeting the requirements of the municipal Planning Act or the intent of any applicable corridor or sub-area plans. If conditions have changed since the plan, or any applicable corridor or sub-area plans, was adopted, the uses shall be consistent with recent development trends in the area. Other land uses may be authorized when such uses are determined to be consistent with the intent of this Article. Physical standards relating to matters such as building height, bulk, density, parking and setbacks will be determined based upon the specific PUD plan presented, and its design quality and compatibility with adjacent uses, rather than being based upon the specific standards contained in the underlying zoning districts or in those districts within which the proposed uses otherwise occur. A Planned Unit Development plan, approved in accordance with the provisions of this Article, replaces the underlying zoning districts as the basis upon which the subject property is developed and its uses are controlled.

35.30.00. Standards for Approval:

A Planned Unit Development project may be applied for in any zoning district. In order to be considered for the Planned Unit Development option, it should be demonstrated that the following standards will be met, as reasonably applicable to the site:

A. The proposed development shall be applied for by a person or entity who has the legal right to execute a binding agreement covering all parcels in the PUD.

B. The applicant shall demonstrate that through the use of the PUD option, the development will accomplish a sufficient number of the following objectives, as are reasonably applicable to the site, providing:

1. A mixture of land uses that would otherwise not be permitted without the use of the PUD, provided that other objectives of this Article are also met;

2. A public improvement or public facility (e.g. recreational, transportation, safety and security) which will enhance, add to or replace those provided by public entities, thereby furthering the public health, safety and welfare;

3. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be infeasible or unlikely to be achieved absent these regulations;

4. Long term protection and preservation of natural resources, natural features, and historic and cultural resources, of a significant quantity

and/or quality in need of protection or preservation, and which would otherwise be unfeasible or unlikely to be achieved absent these regulations;

5. A compatible mixture of open space, landscaped areas, and/or pedestrian amenities;

6. Appropriate land use transitions between the PUD and surrounding properties;

7. Design features and techniques, such as green building and low impact design, which will promote and encourage energy conservation and sustainable development;

8. Innovative and creative site and building designs, solutions and materials;

9. The desirable qualities of a dynamic urban environment that is compact, designed to human scale, and exhibits contextual integration of buildings and city spaces;

10. The PUD will reasonably mitigate impacts to the transportation system and enhance non-motorized facilities and amenities;

11. For the appropriate assembly, use, redevelopment, replacement and/or improvement of existing sites that are occupied by obsolete uses and/or structures;

12. A complementary variety of housing types that are in harmony with adjacent uses;

13. A reduction of the impact of a non-conformity or removal of an obsolete building or structure;

14. A development consistent with and meeting the intent of this Article; and will promote the intent of the plan meeting the requirements of the Municipal Planning Act or the intent of any applicable corridor or sub-area plans. If conditions have changed since the plan, or any applicable corridor or sub-area plans, was adopted, the uses shall be consistent with recent development trends in the area.

15. Includes all necessary information and specifications with respect to structures, heights, setbacks, density, parking, circulation, landscaping, amenities and other design and layout features, exhibiting a due regard for the relationship of the development to the surrounding properties and uses thereon, as well as to the relationship between the various elements within the proposed Planned Unit Development. In determining whether these relationships have been appropriately addressed, consideration shall be given to the following:

    A. The bulk, placement, and materials of construction of the proposed structures and other site improvements.

    B. The location and screening of vehicular circulation and parking areas in relation to surrounding properties and the

other elements of the development.

C. The location and screening of outdoor storage, loading areas, outdoor activity or work areas, and mechanical equipment.

D. The hours of operation of the proposed uses.

E. The location, amount, type and intensity of landscaping, and other site amenities.

16. Parking shall be provided in order to properly serve the total range of uses within the Planned Unit Development. The sharing of parking among the various uses within a Planned Unit Development may be permitted. The applicant shall provide justification to the satisfaction of the City that the shared parking proposed is sufficient for the development and will not impair the functioning of the development, and will not have a negative effect on traffic flow within the development and/or on properties adjacent to the development.

17. Innovative methods of stormwater management that enhance water quality shall be considered in the design of the stormwater system.

18. The proposed Planned Unit Development shall be in compliance with all applicable Federal, State and local laws and ordinances, and shall coordinate with existing public facilities.

35.40.00. Consistency with Plan.

In the event that an applicant proposes a Planned Unit Development wherein the predominant use or uses would not be consistent with the intent of the plan meeting the requirements of the Municipal Planning Act, applicable corridor or sub-area plans, recent development trends in the area, or this Article, the City may consider initiating an amendment to the plan or applicable corridor or sub-area plans. If an applicant proposes any such uses, the applicant shall provide supporting documentation in advance of or simultaneous with the request for Concept Development Plan Approval.

35.50.00. Summary of the Approval Process:

A. *Step One: Conceptual Development Plan Approval.* The procedure for review and approval of a PUD shall be a three-step process. The first step shall be application for and approval of a Concept Development Plan, which requires a legislative enactment amending the zoning district map so as to reclassify the property as a Planned Unit Development. A proposed Development Agreement shall be included and incorporated with the Concept Development Plan, to be agreed upon and approved coincident with said Plan. The Concept Development Plan and Development Agreement shall be approved by the City Council following the recommendation of the Planning Commission. Such action, if and when approved, shall confer upon the applicant approval of the Concept Development Plan and shall rezone the property to PUD in accordance

with the terms and conditions of the Concept Development Plan approval.

B. *Step Two: Preliminary Development Plan Approval.* The second step of the review and approval process shall be the application for and approval of a Preliminary Development Plan (preliminary site plan) for the entire project, or for any one or more phases of the project. The Planning Commission shall have the final authority to approve and grant Preliminary Development Plan approvals.

C. *Step Three: Final Development Plan Approval.* The third step of the review and approval process shall be the review and approval of a Final Development Plan (final site plan) for the entire project, or for any one or more phases of the project, and the issuance of building permits. Final Development Plans for Planned Unit Developments shall be submitted to the Planning Department for administrative review, and the Planning Department, with the recommendation of other appropriate City Departments, shall have final authority for approval of such Final Development Plans.

35.50.01. Step One: Concept Development Plan Approval:

A. *Preapplication Meeting.* Prior to the submission of an application for approval of a Planned Unit Development, the applicant shall meet informally with the Planning Department of the City, together with such staff and outside consultants as deemed appropriate by the City. The applicant shall present at such conference, or conferences, a sketch plan of the proposed Planned Unit Development, as well as the following information:

1. A legal description of the property and the total number of acres in the project;
2. A topographical map of the site;
3. A statement as to all proposed uses;
4. The known deviations sought from the ordinance regulations otherwise applicable;
5. The number of acres to be preserved as open or recreational space and the intended uses of such space;
6. All known natural resources, natural features, historic resources and historic features; which of these are to be preserved; and
7. A listing and specification of all site development constraints.

B. *Concept Development Plan.* Thereafter, a Concept Development Plan conforming to the application provisions set forth herein shall be submitted. A proposed Development Agreement shall be incorporated with the Concept Development Plan submittal and shall be reviewed and approved coincident with the Plan. Such submissions shall be made to the Planning Director, who shall present the same to the Planning Commission for consideration at a regular or special meeting. The Concept Development Plan shall constitute an application to

amend the zoning district map. Before making a recommendation to the City Council, the Planning Commission shall hold a Public Hearing on the proposal. Prior to the Planning Commission scheduling a Public Hearing, the applicant shall arrange for one or more informal meetings with representatives of the adjoining neighborhoods, soliciting their comments and providing same to the Planning Commission. The City shall be advised in advance as to the scheduling and location of all such meetings.

Thereafter, the Planning Commission shall make a recommendation to the City Council with regard to the Concept Development Plan. A Public Hearing shall be scheduled before the City Council, at which time they will consider the proposal along with the recommendations of the Planning Commission, the City staff, and comments of all interested parties. The City Council shall then take action to approve, approve with conditions, or disapprove the Concept Development Plan. The City Council shall set forth in their resolution the reasons for such action, including any reasons for denial.

C. *Application.* The application for approval of a Concept Development Plan shall include the following information and materials, which shall be in a plan format together with a narrative explanation:

1. *Development concept:* A summary explanation of the development concept of the proposed Planned Unit Development. The Concept Development Plan shall describe the project and explain how the project will meet the intent of the PUD option as set forth in Section 35.10.00 and the criteria for consideration as a PUD as set forth in Section 35.30.00 hereof, as those sections reasonably apply to the site.

2. *Density:* The maximum density of the overall project and the maximum density for each proposed use and phase.

3. *Road system:* A general description of the road system and circulation pattern; the location of roads, entrances, exits and pedestrian walkways; a statement whether roads are intended to be public or private.

4. *Utilities:* A general description and location of both on-site and off-site utilities including proposed water, sanitary sewer, storm sewer systems and utility lines; a general indication of the size and location of stormwater detention and retention ponds, and a map and text showing off-site utilities, existing and proposed, which will provide services to the project.

5. *Open space/common areas:* A general description of proposed open space and common areas; the total area of open space; the total area of open space in each proposed phase; the proposed uses of open space and common areas.

6. *Uses:* A list of all proposed uses; the location, type and land area to be devoted to each use, both overall and in each phase; a

demonstration that all of the proposed uses are permitted under this Article.

7. *Development guidelines:* A plan of the site organization, including typical setback and lot dimensions; the minimum lot sizes for each use; typical minimum and maximum building height and size; massing models; conceptual building design; and the general character and arrangement of parking; fencing; lighting; berming; and building materials.

8. *Parking and Traffic:* A study of the parking requirements and needs; a traffic impact study and analysis.

9. *Landscaping:* A general landscaping plan; a landscape plan for entrances; a landscape plan for overall property perimeters; any theme/streetscape design; any proposed irrigation.

10. *Natural resources and features:* Floodway/floodplain locations and elevations; wetlands and water courses; woodlands; location and description of other natural resources and natural features.

11. *Phasing information:* The approximate location, area and boundaries of each phase; the proposed sequence of development, including phasing areas and improvements; and the projected timing for commencement and completion of each phase.

12. *Public services and facilities:* A description of the anticipated demand to be generated by the development for public sewer, water, off-site roads, schools, solid waste disposal, off-site drainage, police and fire; a description of the sufficiency of each service and facility to accommodate such demands; the anticipated means by which any insufficient services and facilities will be addressed and provided.

13. *Historical resources and structures:* Their location, description and proposed preservation plan.

14. *Site topography.*

15. *Signage:* General character and location of entrance and internal road system signage; project identification signage; and temporary or permanent signage proposed for any other locations.

16. *Amenities.*

17. *Zoning classification:* Existing zoning classifications on and surrounding the site.

18. *Specification of deviations:* A specification of all deviations proposed from the regulations which would otherwise be applicable to the underlying zoning and to the proposed uses, which are proposed and sought for any phase or component of the Planned Unit Development; the safeguards, features and/or planning mechanisms proposed to achieve the objectives

intended to be accomplished by any regulation from which a deviation is being sought.

19. *Community impact statement:* A community impact statement, which shall provide an assessment of the developmental, ecological, social, economic and physical impacts of the project on the natural environmental and physical improvements on and surrounding the development site. Information required for compliance with other ordinance provisions need not be duplicated in the community impact statement.

20. *Environmental impact statement:* An environmental impact statement in accordance with the provisions of Article VII of this Chapter shall be submitted.

D. *Standards for Approval.* In making a determination as to whether to approve a proposed Planned Unit Development proposal, the Planning Commission and the City Council shall be guided by the intent and criteria as set forth in Sections 35.10.00 through 35.40, as reasonably applicable to the site.

E. *Planned Unit Development Agreement.* In conjunction with a request for Concept Development Plan approval, the applicant shall submit one or more proposed documents which, when agreed upon by all parties, shall serve as the PUD Agreement. As a part of the Concept Development Plan approval process, the applicant and the City Council shall each authorize execution of a PUD Development Agreement. The PUD Development Agreement shall include, but shall not be limited to, items such as the following:

1. A summary description of the nature and character of the proposed development, including uses, densities and site improvements as approved in the Concept Development Plan.

2. A statement of the conditions upon which Conceptual Development Plan Approval by the City Council is based, with particular attention given to those conditions which are unique to this particular PUD Plan. These conditions may include matters such as, but not limited to, architectural standards, building elevations and materials, site lighting, pedestrian facilities, and landscaping.

3. A summary of the public improvements (streets, utilities, etc.) and any other material benefits offered by the applicant, which are to be carried out in conjunction with the proposed PUD development, along with a summary of the financial guarantees which will be required and provided in order to ensure completion of those improvements, as well as the form of such guarantees which will be acceptable to the City.

4. A document specifying and ensuring the maintenance of any open space or common areas contained within the PUD development (e.g. through a property owners association, or through conveyance to the City with maintenance deposit, etc.).

   Upon the granting of Concept Development Plan approval, the Planned Unit Development Agreement shall be recorded in the office of the Oakland County Register of Deeds by the City of Troy, referencing the legal description of the subject property.

5. A statement that if there is a conflict between the Zoning Ordinance, the Conceptual Development Plan and the Planned Unit Development Agreement, the Planned Unit Development Agreement shall control.

F. *Effect of Concept Development Plan Approval.* If the City Council approves the Concept Development Plan and the Development Agreement, the zoning map shall be amended to designate the property as a Planned Unit Development. Such action, if and when approved, shall confer Concept Development Plan approval for five (5) years (herein to be referred to as CDP Period). The five year CDP Period commences upon the effective date of adoption of the ordinance that rezones the parcel to PUD by City Council

During the CDP Period, the applicant shall be permitted to submit at least one (or more, at the option of the applicant, if the project is proposed in phases) Preliminary Development Plan application(s), seeking Preliminary Development Plan approval in the manner hereinafter provided. Upon the submittal of the first Preliminary Development Plan for one or more phases of the PUD project, the five (5) year expiration period shall no longer apply to the CDP and the CDP shall remain in full force and effect for the development of the entire PUD project, including without limitation, the development of all future phases of the entire PUD Property. Any submittals of Preliminary Development Plans shall comply with all the requirements of Section 3.43.00 of the Troy Zoning Ordinance for Preliminary Site Plan submittals and any additional requirements of the Planning Department reasonably needed to demonstrate consistency with the CDP and compliance with Section 35.50.02. Any Preliminary Development Plans that do not comply with these requirements shall not be considered submittals for purposes of this Paragraph. After submittal of the first Preliminary Development Plan, the timing for the issuance of permits and construction of the PUD project and/or all future phases, shall, be determined as set forth in Section 35.50.02.G.

Upon the request of the applicant, prior to the expiration of the Concept Development Plan, the City Council may extend the expiration date of the Concept Development Plan. In determining whether to extend the expiration date of the Concept Development Plan, approval of an extension may be granted if the ordinances and laws applicable to the

project have not changed in a manner which would substantially affect the project as previously approved.

In the event of the expiration of the Concept Development Plan, the applicant may either make application for a new Concept Development Plan or make application for some other zoning classification. Following Final Development Plan Approval for one or more phases or for the entire PUD, no use or development of the subject property may occur which is inconsistent with the approved Final Development Plan and Development Agreement. There shall be no use or development of the subject property until a new concept development plan or rezoning is approved.

35.50.02. Step Two: Preliminary Development Plan Approval:

A. Development of property classified as a PUD shall require Preliminary Development Plan approval, which shall be granted by the Planning Commission. Application(s) shall be submitted to the Planning Commission for review and approval consistent with the approved Concept Development Plan.

B. Preliminary Development Plan approval may be applied for and granted with respect to the entire PUD development or as to one or more phases. However, if the project is developed in phases, the design shall be such that upon completion, each phase or cumulative result of approved phases shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the Planned Unit Development and properties in the surrounding area.

The Planning Commission shall specify the public improvements required to be constructed in addition to and outside of the proposed phase or phases for which approval is sought, which are determined to be necessary in order to support and service such phase or phases.

Further, the Planning Commission may require the recordation of permanent or temporary easements, open space agreements, and other instruments in order to ensure the use and development of the public improvements on the property as proposed and/or to promote and/or protect the public health, safety and welfare in a manner consistent with the intent and spirit of this Article.

C. Following receipt of an application for Preliminary Development Plan approval for either the entire PUD development, or for any one or more phases thereof, the Planning Commission shall conduct a public hearing to determine that:

1. The Preliminary Development Plan continues to meet and conform to the criteria for, the intent of and the objectives contained in the approved Concept Development Plan. In the event that the Planning Commission determines that the

Preliminary Development Plan does not continue to meet or conform to the criteria for, the intent of and/or the objectives contained in the approved Concept Development Plan, the applicant shall either revise the Preliminary Development Plan to so conform, or, shall seek an amendment to the Concept Development Plan in accordance with Section 35.70.00 hereof; and

2. The Preliminary Development Plan meets the requirements, standards and procedures set forth Section 03.40.00 *et seq.* (Site Plan Review/Approval) of the Zoning Ordinance and any other applicable requirements as set forth in this Article.

D. Except as herein otherwise modified, Preliminary Development Plan approval shall be based upon the requirements, standards and procedures set forth Section 03.40.00 *et seq.* of the Zoning Ordinance (Site Plan Review/Approval). In addition to the information required in such Section, the applicant shall also submit the following:

1. A demonstration, including map and text, that the requirements of Section 35.50.02.B hereof have been met.

2. To the extent not provided by the information submitted in accordance with Section 03.40.00 *et seq.* of the Zoning Ordinance, the following additional information and documentation shall be submitted:

a. Sufficient information to demonstrate compliance with any applicable project design standards as approved during Concept Development Plan review.

b. A site plan showing the type, location and density of all structures and uses.

c. A plan showing all open spaces, including preserves, recreational areas, and historic resources, including but not limited to all similar such uses and spaces, and the purpose proposed for each area.

d. Expert opinion of an independent consultant with regard to a market need for the use or uses proposed and the economic feasibility of the project.

e. A specification of all deviations proposed from the regulations which would otherwise be applicable to the underlying zoning and to the proposed uses. This specification shall state the reasons and mechanisms to be utilized for the protection of the public health, safety and welfare in lieu of the regulations which would otherwise apply to a traditional development.

f. Additional landscaping details as required by the Planning Commission and/or the City Council in order to achieve a specific purpose consistent with the spirit of this Article.

g. The general improvements which will constitute a part of each phase or phases proposed, including, without limitation, lighting, signage, visual and noise screening mechanisms, utilities, and further including the aesthetic qualities of the general improvements.

E. The Planning Commission shall proceed with the review of a Preliminary Development Plan in the manner herein specified and in accordance with the provisions of Section 03.40.00 *et seq.* of the Zoning Ordinance.

F. At the conclusion of the Planning Commission's review, the Planning Commission shall either grant approval of the Preliminary Development Plan, with or without conditions, or deny. If denied, the minutes of the meeting shall include the grounds for denial. If approval is granted with conditions, the minutes shall include a statement of the conditions.

G. The Planning Commission's approval of the Preliminary Development Plan shall be effective for a period of three (3) years, during which period of time the applicant is authorized to submit a Final Development Plan (final site plan, engineering and construction plans) for site improvements, together with all other documents necessary for Final Development Plan approval and the issuance of Building Permits. The applicant may apply to the Planning Commission for extension of the three (3) year period for approval of the Preliminary Development Plan.

35.50.03. Step Three: Final Development Plan Approval:

Upon receipt of Preliminary Development Plan approval, the applicant shall be entitled to submit a Final Development Plan for the entire development (or one or more phases) to the Planning Department for its review and approval, and the Planning Department shall have final authority for the review and approval of Final Development Plans. In conjunction with the application for approval of a Final Development Plan, the applicant shall submit evidence of completion of the Preliminary Development Plan Approval process in accordance with this Article. Following their review of the Final Development Plan, the Planning Department shall approve, approve with conditions, or disapprove the Final Development Plan. In the event of denial, the Planning Department shall set forth in writing the reasons for such action. Construction shall commence in accordance with the Final Development Plan within two (2) years from the date of approval. The applicant may apply to the Planning Commission for an extension of the one (1) year period within which to commence construction upon good cause shown.

35.60.00. Amendment or Abandonment:

35.60.01. Any proposed amendment of the Planned Unit Development which seeks to alter the intent, the conditions or terms of the Concept Development

Plan as approved and/or the terms or conditions of Final Development Plan approval, shall be presented to and considered by the Planning Commission and the City Council at Public Hearings, following the procedures set forth for Concept Development Plan approval.

35.60.02 Abandonment of Concept Development Plan: Following any action evidencing abandonment of the Concept Development Plan, whether through failure to proceed during the Concept Development Plan period as required under this Article, or through notice of abandonment given by the property owners, applicants or their successors, the City Council shall be entitled to take any necessary and appropriate action to rescind the Concept Development Plan approvals, to invalidate any related Development Agreements, and to rezone the subject property from PUD to an appropriate classification. Abandonment shall be deemed to rescind any and all rights and approvals granted under and as part of the Concept Development Plan ~~PUD~~, and the same shall be deemed null and void. Evidence of such actions shall be recorded in the office of the Oakland County Register of Deeds, and referenced to the subject property.

35.60.03. Abandonment of Preliminary Development Plan: Approved Preliminary Development Plans for which a Final Development Plan has not been submitted as required under Section 35.50.02.G., shall be considered abandoned for the purposes of this Article. The applicant may request a twelve month extension of Preliminary Development Plan approval, which will be considered and acted upon by the Planning Commission following a Public Hearing. A written request for extension must be received by the City before the expiration of the three year Preliminary Plan Approval period.

35.60.04. Abandonment of Final Development Plan: Approved Final Development Plans, upon which construction does not commence within a two year period from the date of a Final Development Plan approval, shall be considered abandoned for the purposes of this Article. The applicant may request a twelve month extension of Final Development Plan approval, which will be considered and acted upon by the City Council following a Public Hearing. A written request for extension must be received by the City before the expiration of the two year Final Plan Approval period.

35.70.00. Appeals:

The Board of Zoning Appeals shall have no authority in matters covered by this Article. Modifications to plans or proposals submitted under this Article shall be processed in accordance with the amendment procedures covered under Section 35.60.00 hereof.

35.80.00. Violations:

Any violation of the approved PUD Final Plan or the PUD Agreement shall be considered a violation of the Zoning Ordinance, which shall be subject to the enforcement actions and penalties described in Section 02.50.00 of the Zoning

Ordinance.

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

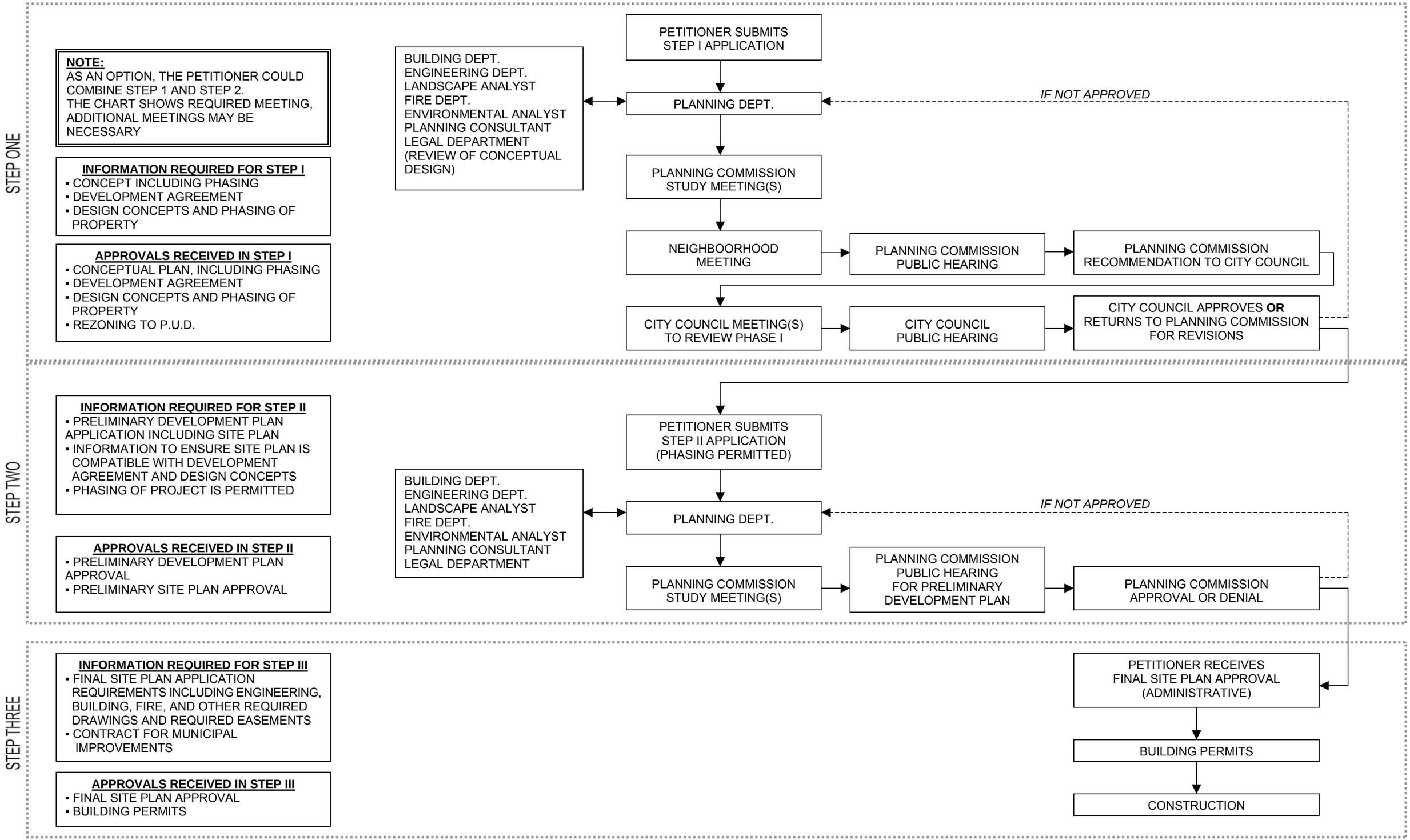
This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, 2007.

_____
Louise Schilling, Mayor

_____
Tonni Bartholomew, City Clerk

G:\ZOTAs\ZOTA 225 Amendment to PUD Provisions\ZOTA 225 CC Public Hearing Draft 02 27 07.DOC

CITY OF TROY
PROPOSED P.U.D. APPROVAL PROCESS



4. PUBLIC HEARING - ZONING ORDINANCE TEXT AMENDMENT (ZOTA 225) – Article 35.00.00 Planned Unit Developments

Planning Director Miller presented a summary on the Planning Department report on the Zoning Ordinance Text Amendment (ZOTA 225) – Article 35.00.00 Planned Unit Developments.

PUBLIC HEARING RE-OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2007-02-031
Moved by: Kerwin
Seconded by: Tagle

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles IV DEFINITIONS and XXXV GENERAL PROVISIONS, pertaining to Planned Unit Developments (PUD), be amended as printed on the proposed Zoning Ordinance Text Amendment, Planning Commission Draft dated February 7, 2007.

Yes: All present (5)
No: None
Absent: Littman, Strat, Troshynski, Wright

MOTION CARRIED